

EXHIBIT 1

1
2 IN THE UNITED STATES BANKRUPTCY
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 IN RE:

6 Case No.:

7 19-13895-jlg

8 ORLY GENDER,

9 Debtor.

10 -----X

11
12 July 15, 2020
13 9:48 a.m.

14 *3RD REVISED*

15 INTERNET STREAMING EXAMINATION BEFORE
16 TRIAL of SAGI GENDER, the Non-Party Witness in
17 the above-entitled action, taken on behalf of
18 the aforementioned parties, held at the above
19 time and place, and taken before Dorene Glover,
20 a reporter and Notary Public within and for the
21 State of New York.

22
23
24
25 Job No. 181828

Page 6

1 GENDER
2 number one of the video recorded
3 deposition of Sagi Genger, In Re: Orly
4 Genger, in the United States Bankruptcy
5 Court Southern District of New York.
6 Case number 19-13895 JLG.
7 This deposition is being held via
8 videoconference with all participants
9 appearing remotely due to COVID-19
10 restrictions, on Wednesday, July 15th,
11 2020, at approximately 9:50 a.m.
12 My name is Tim Falk. I am the
13 Legal Video Specialist from TSG
14 Reporting Incorporated headquartered at
15 228 East 45th Street, New York, New
16 York.
17 The court reporter is Dorene Glover
18 in association with TSG Reporting.
19 Counsel, please introduce
20 yourselves.
21 MR. HERSCHMANN: Eric Herschmann.
22 Does anyone else want to do a --
23 MR. BOWEN: Michael Bowen with the
24 law firm of Kasowitz, Benson & Torres.
25 MR. GERON: This is Yann Geron.

Page 8

1 GENDER
2 MR. LEOV: Yeah, I'm here. You
3 have my information. I e-mailed it to
4 you. Paul Lebov on behalf of Dalia
5 Genger.
6 MR. HERSCHMANN: We also have John
7 Gonzalez. He is a paralegal. Can you
8 swear in the witness, please?
9 THE WITNESS: Dorene, I would like
10 to affirm.
11 S A G I G E N G E R,
12 the witness herein, having first been duly
13 sworn by a Notary Public of the State of New
14 York, was examined and testified as follows:
15 EXAMINATION
16 BY MR. HERSCHMANN:
17 Q. Mr. Genger, my name is Eric
18 Herschmann. I'm going to ask you a series of
19 questions today. I ask that you listen to my
20 questions very carefully and only answer to the
21 question that I pose to you. Is that okay?
22 A. I'll do my best.
23 Q. And just before we get started, Mr.
24 Genger, are you familiar with the phone number
25 501-221-7574?

Page 7

1 GENDER
2 The law firm is Reitler, Kailas and
3 Rosenblatt and we represent Orly Genger.
4 MR. CAVALIERE: Rocco Cavaliere
5 Tarter, Krinsky & Drogin. On behalf of
6 Debra Piazza P-I-A-Z-Z-A, the Chapter 7
7 trustee.
8 MR. GARTMAN: Chris Gartman from
9 Hughes, Hubbard and Reed, on behalf of
10 Creditor ADBG, LLC.
11 THE VIDEOGRAPHER: If that's
12 everyone, will the court reporter please
13 swear in the witness.
14 MR. DELLAPORTAS: This is John
15 Dellaportas, D-E-L-L-A-P-O-R-T-A-S, of
16 Emmet, Marvin and Martin, LLP on behalf
17 of the witness Sagi Genger.
18 MR. BORRIELLO: This is Jared
19 Borriello from Togut, Segal and Segal on
20 behalf of creditor Arie Genger.
21 THE VIDEOGRAPHER: If the court
22 reporter will please swear in the
23 witness.
24 MR. KURLAND: We're still missing
25 one. Paul has not appeared yet.

Page 9

1 GENDER
2 A. I may be. That's the number that
3 was up before on the screen?
4 Q. That's correct, sir.
5 A. I think that's Mr. Oldner's number,
6 but I'm not sure.
7 Q. Well, do you have a way of checking
8 whether that's Mr. Oldner's number -- do you
9 understand why Mr. Oldner would be dialing into
10 your deposition and then did not identify
11 himself?
12 A. No, I don't know why he would not
13 identify himself or hang up.
14 Q. Did you discuss with him at all
15 that you were having your deposition today?
16 A. Yes.
17 Q. Did you provide him the log-in
18 information -- to your knowledge who provided
19 him your log-in information to your deposition?
20 A. I did.
21 Q. To your knowledge, is Mr. Oldner
22 now trying to listen in to the deposition
23 either through Mr. Dellaportas' phone or anyone
24 else's?
25 A. No. I don't know about it.

Page 242

1 GINGER

2 differently on the Judy Bachman letter of

3 June 17th, how would you have drafted it

4 differently?

5 A. I don't recall.

6 Q. Sorry?

7 A. I don't recall.

8 Q. Now, I want to show you a document

9 that is from index number 651089-2010 it's a

10 February 13th, 2015, affirmation of Mr.

11 Dellaportas on behalf of Sagi Genger and the

12 Sagi Genger Trust in support of and joining

13 Elana Genger's motion to substitute and for

14 payment into court. Pull that up for a moment,

15 sir.

16 Mr. Genger, this is a filed

17 document, Document 1229 on the court's docket.

18 And I will represent to you on the last page,

19 page 19, there's a signature from Mr.

20 Dellaportas.

21 In 2015, you had asked along with

22 your mother, that the proceeds from the Trump

23 settlement agreement from 2015 be paid into the

24 court, correct?

25 A. No, I remember someone asked --

Page 244

1 GINGER

2 You see that?

3 A. Yes.

4 Q. It says, right in the next sentence

5 that Orly is not the sole beneficiary. In

6 addition to Orly, the Orly trust also has a

7 contingent remainder beneficiary, the Sagi

8 trust.

9 You see that, sir?

10 A. Yes.

11 Q. Sir, you understand that your

12 sister was the primary trust beneficiary of the

13 Orly Genger 1993 trust, right, and that Orly --

14 that your trust was contingent beneficiaries,

15 right?

16 MR. DELLAPORTAS: Objection. Calls

17 for legal conclusions.

18 Q. Sir, did you challenge Mr.

19 Dellaportas when he made this representation in

20 court under oath? Did you make any filings to

21 correct -- you told us earlier, you take all

22 the filings that's Mr. Dellaportas makes on

23 your behalf very seriously. Did you at any

24 point make a filing in court or tell Mr.

25 Dellaportas to make a filing in court and his

Page 243

1 GINGER

2 there's something that happened, but I don't

3 remember exactly what happened.

4 Q. From 2015 'til 2019, you didn't get

5 one court order anywhere that would order the

6 money be paid into the court, correct?

7 A. You're talking about the

8 \$32.3 million?

9 Q. That's correct, sir.

10 A. No, there's no such court order.

11 Q. Let's go to page 1. This is an

12 introduction paragraph two, "by her motion,

13 trustee Dalia Genger (Dalia) seeks to recover

14 for the Orly Genger 1993 trust, the Orly trust

15 \$32,300,000 in trust assets which Orly Genger

16 has misappropriated for her own benefit and

17 that of her father and the hedge fund investors

18 who fund Arie's lawsuits. New York law

19 requires that the proceeds from the settlement

20 of the Orly Trust be paid into the court."

21 You see that, sir?

22 A. Yes.

23 Q. Next paragraph, your lawyer, Mr.

24 Dellaportas, says, "Orly is not the only victim

25 when she steals from the Orly Trust."

Page 245

1 GINGER

2 representations to the court were not accurate

3 or truthful?

4 A. I made no such filing.

5 Q. Now, sir, turn now to page 2. Sir,

6 you claim in this bankruptcy that -- let me --

7 go to paragraph six, can you go up?

8 A. Pause for a moment. Because

9 normally I have all the documents. I just want

10 to ask when is this document from? What year?

11 Q. 2015.

12 A. Okay.

13 Q. In 2015, you and your mother have

14 made all types of filings and allegations

15 trying to get the \$32,300,000 paid into the

16 court, but you've never been successful, right,

17 sir? It's not a new allegation. It's been

18 around for years, right?

19 A. She's made a request in surrogates

20 court. So I'm going to just think about the

21 question.

22 Q. Well, sir, this is an affirmation

23 submitted by your lawyer. By your lawyer in

24 the Supreme Court in the State of New York

25 County of New York in support of your mother's

Page 246

1 GINGER

2 application.

3 Are you telling us you didn't

4 discuss this with Mr. Dellaportas before he

5 filed it?

6 MR. DELLAPORTAS: Objection. Calls

7 for privileged communications. Direct

8 him not to answer.

9 Q. Is Mr. Dellaportas -- let me make

10 sure we are clear because this paragraph, this

11 whole thing says, "I am a member of the firm

12 counsel for Sagi Genger in the Sagi Genger 1993

13 Trust, Sagi Genger, the Sagi Genger Trust

14 supports and jointed trustee Dalia Genger's

15 motions to (inaudible) for plaintiff Orly

16 Genger or her derivative claims against the

17 Trump Group and for an order directing

18 settlement proceeds be paid into court.

19 Do you see that, sir?

20 A. I do.

21 Q. So you tried with Mr. Dellaportas

22 for years now, to have the \$32,300,000 paid

23 into court, but you were never successful,

24 right?

25 MR. DELLAPORTAS: Object to form.

Page 248

1 GINGER

2 court, correct?

3 A. Correct. I don't know if it's paid

4 into the court. I'm not sure if that's true.

5 It's a turnover motion. I'm not sure that's

6 paying the court, but whatever it says, that's

7 what it says. I'm not going to change it here.

8 Q. Sir, you've made attempts for years

9 and years before Orly did it and what was wrong

10 -- was your turnover motion scheduled for a

11 hearing in any court before the Orly's

12 bankruptcy?

13 A. I don't know the answer to that.

14 Q. Well, sir, did you have some

15 imminent ruling from the court that said we're

16 going to grant this application after all these

17 years and now all of sudden are going to give

18 in? Do you have any ruling like that from any

19 court?

20 A. I mean, I think that that's a

21 nonsensical ruling.

22 Q. I agree, sir. So how does your

23 lawyer Mr. Dellaportas tell the courts that

24 the -- tell other courts that the Southern

25 District of New York was imminently going to

Page 247

1 GINGER

2 A. There has been no successful order

3 of the \$32,300,000 into court. This document

4 is evidence that apparently at one point I

5 tried.

6 Q. With Mr. Dellaportas and your

7 mother, right, sir?

8 A. I don't know if it's Mr.

9 Dellaportas. Unless he says otherwise on my

10 behalf, it's certainly on my behalf.

11 Q. The first paragraph talks about

12 it's in support joining in your mother's

13 motion.

14 A. As I'm trying to explain to you, I

15 don't remember the document in detail. To the

16 extent then it says what it says, and I can't

17 really add or subtract it, but especially

18 without having the whole document in front of

19 me, I can't speak to it. I'm sure the document

20 is genuine. It rings a bell.

21 Q. Sir, just so we're clear, you filed

22 a turnover motion after your sister -- you got

23 a judgment against your sister in the Southern

24 District of New York also by Mr. Dellaportas

25 trying to have the \$32,300,000 paid into the

Page 249

1 GINGER

2 rule when your turnover motion, when no one has

3 even responded to it yet?

4 A. I think that you're

5 mischaracterizing what he said. However, I am

6 a fact witness, not a witness on behalf of how

7 much Mr. Dellaportas makes legal arguments. So

8 I don't think it's really appropriate for me to

9 testify about that. I think it's rather --

10 Q. You think is the --

11 A. It was rather clear that the

12 bankruptcy was filed to stop the turnover

13 proceeding from being adjudicated.

14 Q. You think it's clear that that's

15 why it was done? What's your basis for that

16 since you were told months beforehand that if

17 the judgment was upheld for an appeal, Orly

18 would be filing for bankruptcy?

19 A. Because in your motion to dismiss,

20 you say that Orly filed a bankruptcy because of


21 the actions filed in district court and that

22 would include the turnover action.

23 Q. Oh, I understand. So you're making

24 the interpretation, I got it. It's not because

25 you were aggressively pursuing your sister post

<p>Page 354</p> <p>1 GENDER</p> <p>2 THE VIDEOGRAPHER: This ends video</p> <p>3 number five. This ends today's</p> <p>4 questioning. We are off the record.</p> <p>5 The time is 6:33 p.m.</p> <p>6 (Whereupon, at 6:33 p.m., the</p> <p>7 examination of this witness was</p> <p>8 concluded.)</p> <p>9</p> <p>10 _____</p> <p>11 SAGI GENDER</p> <p>12</p> <p>13 Subscribed and sworn to before me</p> <p>14 this ____ day of _____, 2020.</p> <p>15</p> <p>16 _____</p> <p>17 NOTARY PUBLIC</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 355</p> <p>1 GENDER</p> <p>2 I N D E X</p> <p>3</p> <p>4 EXAMINATION BY PAGE</p> <p>5 MR. KURLAND 5-300, 321-330</p> <p>6 MR. CAVALIERE 300-321</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 356</p> <p>1 GENDER</p> <p>2 E X H I B I T S (NOT MARKED DURING DEPOSITION)</p> <p>3 EXHIBIT DESCRIPTION</p> <p>4 EXHIBIT 1 October 30, 2004 letter</p> <p>5 EXHIBIT 2 October 22, 2017 e-mail</p> <p>6 EXHIBIT 3 December 2, 2019 e-mail</p> <p>7 EXHIBIT 4 Settlement agreement</p> <p>8 EXHIBIT 5 Release</p> <p>9 EXHIBIT 6 June 17, 2019</p> <p>10 EXHIBIT 7 June 17, 2019 e-mail</p> <p>11 EXHIBIT 8 June 17, 2019 e-mail</p> <p>12 EXHIBIT 9 Affirmation</p> <p>13 EXHIBIT 10 Motion to Dismiss</p> <p>14 EXHIBIT 11 August 8, 2019 document</p> <p>15 EXHIBIT 12 January 23, 2015 letter</p> <p>16 EXHIBIT 13 Invoice</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 357</p> <p>1 GENDER</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 STATE OF NEW YORK)</p> <p>5 ss.:)</p> <p>6 COUNTY OF BRONX)</p> <p>7</p> <p>8 I, DORENE GLOVER, a Notary Public for</p> <p>9 and within the State of New York, do hereby</p> <p>10 certify:</p> <p>11 That the witness whose examination is</p> <p>12 hereinbefore set forth was duly sworn and that</p> <p>13 such examination is a true record of the</p> <p>14 testimony given by that witness.</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by blood</p> <p>17 or by marriage and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto set</p> <p>20 my hand this 22nd day of July, 2020.</p> <p>21</p> <p>22 </p> <p>23 _____</p> <p>24 DORENE GLOVER</p> <p>25</p>